

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

ROBERT ALEXANDER DUBOSE,  
TDCJ ID No. 1880528,  
Previous TDCJ ID No. 1426488,

Plaintiff,

v.

GILBERT GOMEZ, *et al.*,

Defendants.

CIVIL ACTION NO.

5:12-CV-00193-C

ECF

**ORDER**

Plaintiff Robert Alexander Dubose filed a civil rights complaint pursuant to 42 U.S.C. § 1983 and named CO II Gilbert Gomez, Lt. Roberto Tarin, Sgt. Oliver Vasquez, Sgt. NFN Alonzo, and CO NFN Berterson of the Texas Department of Criminal Justice, Correctional Institutions Division ("TDCJ-CID") Preston Smith Unit as Defendants. Plaintiff alleges that on or about September 17, 2011, Defendant Gomez used excessive force against him, and Defendants Tarin, Vasquez, Alonzo, and Berterson were deliberately indifferent to his safety when they failed to intervene and prevent or stop the excessive use of force. As a result of these alleged constitutional violations, Plaintiff contends that he lost a tooth, suffered a busted lip, an abrasion to his right shoulder, and a cut chin which did not heal for several months, and sustained damage to his right eye when Defendant Gomez pressed his fingers into the right eye.

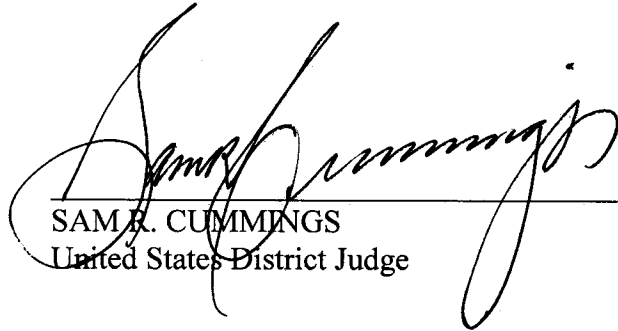
The Court declines to adopt the Report and Recommendation filed by the United States Magistrate Judge on December 21, 2012, and finds that Plaintiff has stated claims of an excessive use of force and failure to protect sufficient to survive preliminary screening.

It is, therefore, ORDERED that:

1. A copy of this Order and Plaintiff's complaint shall be mailed to the Inmate Litigation Coordinator, Enforcement Division, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548, by certified mail, return receipt requested; and

2. Defendants Gomez, Tarin, Vasquez, Alonzo, and Berterson shall each file a written answer or other responsive pleading within thirty (30) days from the date the Inmate Litigation Coordinator receives this Order.

Dated June 16, 2014.



SAM R. CUMMINGS  
United States District Judge